

*Page 5, Oregon Environmental Cleanup Law- Acceptable Risk Levels*

The LWG requested clarification that the acceptable risk levels established as cleanup standards under Oregon law will be applied in the same manner as under the state program. EPA discussed with DEQ the LWG's requested clarification that the acceptable risk levels established as cleanup standards under Oregon law will be applied in the same manner as under the state program. DEQ considers the risk assessment performed by the LWG to be generally consistent with what DEQ would require under its program, and adequate for determining whether acceptable risk levels are exceeded at the site.

*Page 6, Oregon Environmental Law- Hot Spots*

Again, the LWG requested clarification that consideration of hot spots of contaminations will be applied in the same manner as under the state program. EPA discussed with DEQ the LWG's requested clarification, specifically regarding how hot spots are based on a multiplier of the "acceptable risk level". DEQ considers the risk assessment performed by the LWG to be generally consistent with what DEQ would require under its program.

*Page 6, Hazardous Waste and Materials II*

EPA discussed with DEQ the LWG's requested clarification that state RCRA rules are not applicable to in-water disposal. The LWG is correct in its previous submissions that dredged material may be subject to hazardous waste requirements if the material contains a listed waste or displays a hazardous waste characteristic, and that Oregon has adopted the federal RCRA regulations by reference. See OAR 340-100-0002(1). This includes the hazardous waste exclusion of dredged material under 40 CFR 261.4(g). However, that exclusion reads: "Dredged material that is subject to the requirements of a permit that has been issued under 404 of the Federal Water Pollution Control Act .... is not a hazardous waste... The term permit means a permit issued by the U.S. Corps of Engineers..." Since the on-site portions of the Portland Harbor remedy will be exempt from federal permitting, including Corps 404 permits, it cannot be categorically concluded that disposal of dredged material will be "subject to the requirements of a [Corps-issued] permit" and thus excluded from state RCRA requirements. Further, whether the state RCRA rules contain action-specific requirements will also depend on the specific proposed remedy and stringency. See, e.g., Terminal 4 Action Memorandum (May 11, 2006), Response to Comment Golder-1.

*Page 7, ODFW Fish management Plans*

DEQ suggests that in-water work windows identified by ODFW and other fish agencies be designated as a TBC. The in-water work guidelines can be found at:

[http://www.dfw.state.or.us/lands/inwater/Oregon\\_Guidelines\\_for\\_Timing\\_of\\_%20InWater\\_Work2008.pdf](http://www.dfw.state.or.us/lands/inwater/Oregon_Guidelines_for_Timing_of_%20InWater_Work2008.pdf)

*Page 7, DEQ Guidance Regarding Bioaccumulative Chemicals*

EPA discussed with DEQ the LWG's requested clarification. By its terms, the DEQ guidance may inform cleanup levels in addition to risk assessment. For example, we envision DEQ's guidance could be used for any possible chemicals not considered in the Portland Harbor food web model.